

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
THIRTIETH REGION

Wausau, Wisconsin

OMNI GLASS & PAINT, INC.

Employer

and

Case 30-RC-6094

NORTHERN WISCONSIN REGIONAL COUNCIL
OF CARPENTERS, affiliated with the UNITED
BROTHERHOOD OF CARPENTERS AND
JOINERS OF AMERICA, AFL-CIO¹

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,² the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.³
3. The labor organization involved claims to represent certain employees of the Employer.

¹ The correct name of Petitioner appears as amended at the hearing.

² Timely briefs from the Employer and Petitioner have been received and duly considered.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All glazier helpers employed by the Employer out of its Schofield/Wausau, Oshkosh, and Green Bay, Wisconsin facilities; but excluding employees currently represented by another labor organization, estimators, painters, guards and supervisors as defined in the Act.

Issues:

Contrary to the Employer, the Petitioner contends that the sought-for glazier helpers employed by the Employer at or out of the Employer's Schofield/Wausau facility alone constitutes an appropriate unit. The Employer contends that the only appropriate unit herein encompasses all glazier helpers employed by the Employer at or out of its facilities located in Schofield/Wausau, Oshkosh and Green Bay, Wisconsin.

Facts:

The Employer is engaged in the installation of commercial store fronts and curtain walls throughout the State of Wisconsin, the Upper Peninsula in Michigan and northern Illinois. As a painting contractor throughout the same area, it is engaged in hanging commercial wall paper, staining, painting, and varnishing. It has two divisions, a glass division and a paint division.

The Employer's corporate headquarters are located in Oshkosh, Wisconsin but it also has satellite offices in Schofield (approximately 100 miles from Oshkosh) and Green Bay (approximately 50 miles from Oshkosh). It is currently building a new facility in Wausau, and once

³ The Employer, a Wisconsin corporation, is engaged in the business of selling and installing store fronts and curtain walls, and as a painting contractor. During the past calendar year, a representative period, the Employer purchased and received goods and materials valued in excess of \$50,000 directly from points located outside the State of Wisconsin.

it is completed, it will transfer its Schofield operations (currently an office and garage) to that facility. The Employer's Oshkosh operations has two buildings. One is for its paint division and the other larger building contains its auto glass shop, fabrication shop and office shop. The Employer's glass division oversees its field employees, including journeymen glaziers and glazier helpers. The Green Bay office has an office area and a garage for auto glass installation. There are approximately 14 glazier helpers among the three sites, five of whom are at the petitioned for Schofield/Wausau facility.

For many years, the Employer has been signatory to a series of collective-bargaining agreements covering its journeymen glaziers with Glaziers, Architectural Metal Workers and Glass Workers Union Local 1204 of Milwaukee, Wisconsin, an affiliate of the International Brotherhood of Painters and Allied Trades, AFL-CIO.⁴ That bargaining unit covers the Employer's Schofield/Wausau, Oshkosh and Green Bay facilities. Its most current contract is effective until May 31, 2000. The glaziers work on construction sites throughout the State of Wisconsin, Upper Peninsula of Michigan and northern Illinois.

At the Schofield facility, there are two project managers in the glass division, Chris Herb and David Cooper. At the Green Bay facility, the project managers in the glass division are Jim Kaczrowski and Steve Ermer. The Employer's general manager is David Vander Zanden and its president is Jim Frank, both of whom have their offices at the Oshkosh corporate offices. Every Friday, at least one project manager from each facility is required to attend meetings with the general manager. At this meeting, the project managers are required to provide the general manager with the lists of upcoming jobs for the week and their labor requirements. The general manager then determines which journeymen glaziers and glazier helpers will be assigned to what project.

⁴ While given the opportunity, the Glaziers Union chose not to intervene in the hearing.

Either the project managers, the company president or the shop foreman, Steve Wing, then notify the respective journeymen glaziers and glazier helpers of their assignments.

The interviewing of employees is done either by Frank or Vander Zanden, usually at the Oshkosh facility but occasionally at one of the satellite offices. The hiring decisions are made by Frank or Vander Zanden. The setting of wages for the glazier helpers is done by Frank or Vander Zanden. The evaluations of employees occur after their first 90 days of employment and around their anniversary dates. These evaluations are done primarily by either Frank or Vander Zanden. The employees, including the glazier helpers, are informed of the results of the evaluations either by Frank or Vander Zanden, in a face-to-face meeting (in Oshkosh or at the satellite facility) or by telephone. All pay checks are prepared out of the Employer's corporate headquarters. Employees either pick up their checks, have them sent to them by mail or receive them by direct deposit. On a daily basis, all journeymen glaziers and glazier helpers are required to call the Oshkosh facility to report their hours.

The Employer pays journeymen glaziers and glazier helpers for their ride time and mileage, excluding the first 25 miles. As a result, it tries to assign them to sites closest to their homes. There is interchange of journeymen glaziers and glazier helpers from area to area in about 25 percent of the jobs. Usually the glazier helpers are assigned to assist the journeymen glaziers but occasionally the glazier helpers will be on jobs by themselves or only with other glazier helpers. The Schofield/Wausau employees have worked in the Oshkosh area, Milwaukee area, and the Upper Peninsula in Michigan; the Green Bay employees have worked in Milwaukee and the Upper Peninsula in Michigan, and the Oshkosh employees have worked in the Wausau area and the Upper Peninsula in Michigan. While working on a project, the project manager oversees the day-to-day operations but must clear all disciplinary actions with the general manager or president of the Company. The general manager has given the project managers the discretion to allow overtime if

it means a project can be completed within an hour or two, but if the overtime is any more than that amount, the project manager must clear the use of overtime with the general manager.

All glazier helpers enjoy the same benefits and their wage rates do not vary from facility to facility. The wage rates for the glazier helpers are dependent on work skills and experience and vary from \$8.50 to \$16.00 per hour.

THE LAW

The general rule is that a single-plant unit is presumptively appropriate unless the sought-for employees at one plant are so integrated with the employees at other facilities as to cause their single-plant unit to lose its separate identity. *Macy's West, Inc.*, 327 NLRB No. 201 (1999); *O'Brien Memorial*, 308 NLRB 553 (1992); *Kendall Co.*, 184 NLRB 847 (1970). In determining whether a petitioned-for single plant is appropriate, the Board considers relevant the following criteria: bargaining history; functional integration of operations; similarity of skills, duties and working conditions of employees; central control of labor relations and supervision; and interchange and/or transfer of employees among plants or project sites.

CONCLUSION

The hiring, discipline and general conduct of labor relations herein is highly centralized out of the Employer's' Oshkosh corporate headquarters. Thus, all of the Employer's projects are subject to identical policies and is performed by either the Employer's president or general manager. *Macy's West, Inc.*, supra; *Twenty-First Century Restaurant*, 199 NLRB 881 (1971). There is no evidence of local autonomy as the record reveals only minimal project manager discretion in the assigning of overtime. The functions and capabilities of the glazier helpers are similar among the three facilities. There is no showing that the required skills, duties and working conditions vary from facility to facility. *Macy's West, Inc.*, supra; *Cheney Bigelow Wire Works*, 197 NLRB 1279 (1972). There is frequent interchange among the glazier helpers as they work on

projects located in areas near the other satellite offices along with journeymen glaziers or glazier helpers that live closest to those other offices. Thus, I find the record supports that the only appropriate unit herein is all the glazier helpers employed by the Employer at or out of its facilities located in Schofield/Wausau, Oshkosh and Green Bay, Wisconsin.

SHOWING OF INTEREST

Inasmuch as the election is being directed in a much broader unit than the unit petitioned for by Petitioner, and Petitioner has indicated that it is willing to proceed in a broader unit, it will be necessary for Petitioner to submit to the Regional Office additional showing of interest among the broader unit. Accordingly, I shall direct that Petitioner be given 14 days from the date of this Decision and Direction of Election to submit its additional showing of interest. **Failure by Petitioner to submit a sufficient showing of interest or alternatively, to request to withdraw its petition by May 17, 1999, will result in dismissal of the petition.** However, if review is sought, then Petitioner need not submit a showing of interest in the broader unit until the Board rules upon its request for review. If the Board sustains the unit determination found herein and denies review, then Petitioner will have 7 days from the date of the Board's issuance of its denial of the request for review to submit a sufficient showing of interest, or alternatively, request withdrawal of the petition. Failure to submit the additional showing of interest, or alternatively, request withdrawal of the petition will result in dismissal of the petition.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on

vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their employee status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by NORTHERN WISCONSIN REGIONAL COUNCIL OF CARPENTERS, affiliated with the UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO.

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to the list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 384 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB No. 50 (1994). Accordingly, it is hereby directed that the Employer shall file with the undersigned, **two** copies of an election eligibility list, containing the **full** names (including first and last names) and addresses of all the eligible voters, and upon receipt, the undersigned shall make the list available to all parties to the election. To speed preliminary checking and the voting process itself, it is requested that the names be alphabetized and listed separately for each facility. In order to be timely filed, such a list shall be due within 7 days of the date on which Petitioner submits a sufficient showing of interest, as I have

directed Petitioner to do in the showing of interest section of this decision. When and if Petitioner timely submits a sufficient showing of interest, the Employer will be so notified by letter and **such list must be received in the Regional Office, Suite 700, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203** within (7) seven days thereafter. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed. Failure to comply with this requirement shall be grounds for setting aside the election if proper objections are filed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, Franklin Court, 1099 14th Street, N.W., Washington, DC 20570. **This request must be received by the Board in Washington by May 17, 1999.**

Signed at Milwaukee, Wisconsin this 3rd day of May 1999.

Irving E. Gottschalk, Acting Regional Director
National Labor Relations Board
Thirtieth Region
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